IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-070261 TRIAL NO. B-0608835
Plaintiff-Appellee,	:	*JUDGMENT ENTRY.*
vs.	:	
JULAID MUGHNI,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.[1]

Defendant-appellant, Julaid Mughni, appeals a conviction for robbery under R.C. 2911.02(A)(2). We find no merit in his two assignments of error, and we affirm his conviction.

Evidence presented at a bench trial showed that, at the time of the offense, Mughni lived at the Dennison Hotel. He was in a transitional housing program following his release from prison. Mughni was not employed. The Hamilton County Mental Health Board paid for Mughni to live at the hotel and gave him vouchers for food and spending money.

Richard McCowan also resided at the Dennison Hotel. McCowan was employed and had picked up his paycheck from work that afternoon. Mughni had previously asked McCowan for money and McCowan had given him five dollars.

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[1] See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

On the day of the offense, Mughni again asked McCowan for money, and McCowan replied that he could not give him any. Mughni became angry and kept insisting that McCowan give him some money. When McCowan would not, Mughni began threatening him. At one point, Mughni told McCowan, "I feel like kicking you in the face right now." McCowan tried to leave, but Mughni blocked his way.

Mughni, who had a key in his hand, hit McCowan in the head, causing a gash. McCowan had been standing in the hallway outside a women's bathroom. After he was struck, he fell into the bathroom onto the floor and gashed his elbow. Mughni continued hitting him as he was on the floor. These blows broke McCowan's nose, causing it to bleed profusely.

Mughni subsequently took McCowan's wallet. When he discovered it was empty, he threw it at McCowan. Mughni then rifled through McCowan's pants pockets and took ten dollars that he found there. Mughni started backing down the hallway toward the stairs, stating, "I will pay you back. I will pay you back."

Eventually, McCowan went to the hospital due to his injuries. He received stitches for the cuts above his eye and on his elbow. The doctors told him that he had suffered a brain injury that might cause an aneurysm. They prescribed antibiotics and painkillers and sent him home.

Three days after the attack, the police arrested Mughni. He told them that he had struck McCowan because "he didn't want McCowan to get the jump on him and hit him first." He did not say why he had feared that McCowan would hit him, and he denied taking any money.

At trial, Mughni testified that McCowan was lying in wait for him in the women's bathroom and attacked him unexpectedly. McCowan pulled Mughni into the bathroom, and Mughni hit him once in self-defense. Mughni claimed that he and

McCowan had wrestled, causing McCowan's injuries. He denied that he had taken money from McCowan and contended that McCowan was upset because he had lost the fight.

We address Mughni's assignments of error out of order. In his second assignment of error, he contends that the evidence was insufficient to support his conviction. Our review of the record shows that a rational trier of fact, after viewing the evidence in a light most favorable to the prosecution, could have found that the state had proved beyond a reasonable doubt that Mughni had inflicted, attempted to inflict, or threatened to inflict physical harm on McCowan while attempting or committing a theft offense or in fleeing immediately afterward. Therefore, the evidence was sufficient to support his conviction for robbery under R.C. 2911.02(A)(2).[2]

Mughni is simply arguing that his version of events was more credible, but matters as to the credibility of evidence were for the trier of fact to decide.[3] Therefore, we overrule his second assignment of error.

In his first assignment of error, Mughni argues that his conviction was against the manifest weight of the evidence. The concepts of weight and sufficiency are different and involve different standards of review. The evidence is insufficient to support a conviction if there is a complete failure of proof by the prosecution, thereby barring a retrial under the Double Jeopardy Clause. But when the evidence is sufficient to support a conviction, an appellate court may still reverse the conviction as being against the manifest weight of the evidence.[4]

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[2] See *State v. Jenks* (1991), 61 Ohio St.3d 259, 547 N.E.2d 492; *State v. Haynes*, 1st Dist. No. C-020685, 2004-Ohio-762.
[3] *State v. Bryan*, 101 Ohio St.3d 272, 2004-Ohio-971, 804 N.E.2d 433; *State v. Williams*, 1st Dist. Nos. C-060631 and C-060668, 2007-Ohio-5577.
[4] *State v. Thompkins*, 78 Ohio St.3d 380, 1997-Ohio-52, 678 N.E.2d 541; *State v. Russ*, 1st Dist. No. C-050797, 2006-Ohio-6824.

Nevertheless, after reviewing the evidence in this case, we cannot conclude that the trier of fact lost its way and created such a manifest miscarriage of justice that we must reverse Mughni's conviction and order a new trial. Therefore, the conviction was not against the manifest weight of the evidence.[5] We overrule his first assignment of error and affirm the trial court's judgment.

A certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

PAINTER, P.J., HENDON and **DINKELACKER, JJ.**

To the Clerk:

Enter upon the Journal of the Court on February 20, 2008
per order of the Court _____.
Presiding Judge

[5] See *Thompkins*, supra; *Haynes*, supra; *State v. Allen* (1990), 69 Ohio App.3d 366, 590 N.E.2d 1272.